

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

UNITED STATES OF AMERICA, )  
 )  
Plaintiff, )  
 )  
v. ) No. 19 CR 00486  
 )  
ROBERT ANTHONY HAAS, ) Chicago, Illinois  
 ) July 28, 2020  
Defendant. ) 11:07 a.m.

TRANSCRIPT OF TELEPHONIC PROCEEDINGS  
BEFORE THE HONORABLE EDMOND E. CHANG

APPEARANCES:

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1 (Proceedings heard telephonically:)

2 THE CLERK: 19 CR 486, USA versus Robert Anthony  
3 Haas.

4 THE COURT: All right. This is Judge Chang. Just to  
5 get appearances, let me ask the government to put their  
6 appearance on the record first.

7 MS. KELLY: Erin Kelly for the United States.

8 MR. JONAS: Barry Jonas for the United States.

9 THE COURT: All right. And then, Ms. Singer, can you  
10 announce your appearance?

11 MS. SINGER: Standby counsel, Dena Singer.

12 THE COURT: Okay. And then, Mr. Haas, can you just  
13 state your first and last name, please?

14 THE DEFENDANT: Robert Haas.

15 THE COURT: All right. Good morning.

16 THE DEFENDANT: Good morning, your Honor.

17 THE COURT: All right. I called this -- good  
18 morning. I called this status hearing because, Mr. Haas, as  
19 you're aware, Ms. Singer who is the standby counsel has  
20 expressed some concerns about appearing in person during the  
21 trial. And so I want to -- and I realize that you and  
22 Ms. Singer had talked to one another about this, but I first  
23 want to ask Ms. Singer if she could present her concerns.

24 And if you have any specific ones, Ms. Singer, in  
25 terms of perhaps issues that are specific to you that you

1 would rather have described under seal, I'd be happy to have  
2 us put into an under-seal proceeding so that we're removed  
3 from the public record. Do you prefer to do that, Ms. Singer?

4 MS. SINGER: Your Honor, I can ask to do that if we  
5 get -- if we need to.

6 THE COURT: Okay.

7 MS. SINGER: I think for now, I can relay to the  
8 Court my concerns. After I received the post-pandemic jury  
9 trial plan dated 7/22/20 Excerpts from the Court, after  
10 reviewing it and specifically the portion that deals with -- I  
11 think it's the last page that your Honor sent  
12 electronically -- "mechanisms for counsel/client consultations  
13 with sufficient distancing, particularly in criminal cases  
14 with the defendant in custody, should be discussed and  
15 resolved prior to trial."

16 This was not discussed at our pretrial conference.  
17 And once I received your Honor's email, as I indicated in my  
18 motion and as I've discussed with Mr. Haas as well, I do not  
19 feel safe sitting at counsel table with the rise in numbers of  
20 COVID-19 and the easily transmittable virus that this is.  
21 Basically, the Court has proposed in this post-pandemic jury  
22 trial plan the written communication of passing notes or for  
23 me to go in the lockup.

24 I am not -- I do not feel safe doing that. That  
25 lockup, I have been in that lockup. That lockup is small. It

1 is -- has no ventilation. It has no windows. And it really  
2 defies what the CDC is recommending for precautions to be  
3 taken in light of COVID.

4 In addition, the passing of notes, I'm not sure  
5 conceivably how that works when in order to pass a note, I  
6 have to be within arm's distance of Mr. Haas. And as to no  
7 fault to Mr. Haas at all is incarcerated at the MCC, where I'm  
8 not going to go into with the Court as I'm sure the Court is  
9 already aware of the easily transmittable of the virus within  
10 the jail. I not only am concerned about myself and my own  
11 safety and health as well as that of my family.

12 It has been indicated by an email that the Court sent  
13 that Mr. Haas will be in quarantine for the trial after each  
14 day. That has never been fleshed out what that means for me  
15 or for Mr. Haas except that he'll still have access to a  
16 computer.

17 Mr. Haas still has to come into contact with guards,  
18 with marshals that are transporting him. It looks like based  
19 on the procedures that this post-pandemic jury trial plan lays  
20 out that we're looking at having approximately 20 jurors at a  
21 time plus everybody else that's in the courtroom as well.

22 Mr. Haas, being at the MCC, it's my understanding --  
23 and he can obviously correct me if I'm mistaken -- is  
24 currently in a dorm-style setting. Nobody is six feet apart  
25 in that dorm-style setting. He has not been in quarantine for

1 the past 14 days. So while he has to be in quarantine after  
2 each day, and then it sounds like if Mr. Haas was to be found  
3 guilty, for 14 days after the trial, that in no way solves my  
4 concerns for what's going on for the first day of trial and  
5 thereafter. I am not comfortable sitting at counsel table  
6 which is barely six feet apart with just a mask on.

7 So I did propose alternatives for the Court to  
8 consider. Another alternative that I didn't put in my motion  
9 but that I have seen is the use of a chat function by  
10 computer, that Mr. Haas and I could be chatting that way if he  
11 has questions. This isn't a scenario where Mr. Haas can tap  
12 me on the shoulder and ask a question or somebody can whisper  
13 something to another person. I cannot put myself in that  
14 situation, your Honor.

15 I have spoken with Mr. Haas about this. And I did  
16 file that supplement as your Honor requested, but based on  
17 what we know and the numbers rising currently and that part of  
18 the jurors would be coming from a district that has now been  
19 on the rise and is under a health warning from the governor, I  
20 don't feel safe.

21 THE DEFENDANT: Can I speak for a second, your Honor?

22 THE COURT: Yes, sure. Let me -- before you do that,  
23 Mr. Haas, let me just interpose one thing or a couple things.

24 One is the headset proposal I think actually is  
25 feasible, Ms. Singer. So I might be able to make that work.

1 And I'm more concerned about the phone-in proposal which is --  
2 I think it would create an obstacle in terms of your ability  
3 to see witnesses and exhibits.

4 And, of course, just taking a step back, I understand  
5 all of your concerns overall. I don't think we are out of  
6 step with the CDC guidelines in any way in the sense that the  
7 guidelines say that if we cannot distance, then we ought to be  
8 masked. We are -- we're both distancing and masking. You  
9 mentioned the lockup situation. That was only if the  
10 defendant would then stand at the furthest point in the lockup  
11 cell. But these are just alternatives.

12 So the more specific issue about the attorney-client  
13 conferrals, I think I can make the headset situation work.  
14 I've been in discussion with Systems on that. And you  
15 mentioned the chat computer. That might be another method if  
16 we can't get the headsets to work. But the phone situation, I  
17 don't think that will be really effective in any way.

18 If you are not comfortable with the headset solution  
19 then -- because I don't want to require a standby counsel to  
20 put herself in any situation that you feel unsafe in -- then  
21 I'll certainly consider the withdrawal. But I do want to hear  
22 from Mr. Haas, and I do want to let you know that the headset  
23 proposal, I think I can make that work.

24 So Mr. Haas, go ahead.

25 THE DEFENDANT: Well, first of all, I'd like to say

1 that I think it's kind of a violation of my rights not having  
2 my counsel next to me in person so I can actually whisper  
3 something to her that I need said instead of broadcasting it  
4 across open airwaves and also the fact that it's kind of  
5 alienating me having her away from me like I'm tainted or have  
6 some sort of a disease myself.

7           The major factor I'd really like to point out is the  
8 fact that you guys labeled these instructions as "post-  
9 pandemic." I'd like to know when post-pandemic is. Is that  
10 going to be in two years or three years or when they come up  
11 with a cure? Because the numbers are on a rise. This is not  
12 post-pandemic. That is sophistry, is what that is. There is  
13 no post-pandemic anywhere in sight. The numbers are rising.

14           So I don't think the Court is fit to have anyone in a  
15 room, especially considering that this is a microscopic  
16 organism, and a dust mask will not stop it. If one person in  
17 that courtroom sneezes, the whole room is, it's like a nuclear  
18 bomb has just been dropped in the room, and everybody is  
19 liable to catch it.

20           THE COURT: Mr. Haas, let me just interpose here. I  
21 scheduled this trial for August 3rd because you wanted the  
22 earliest trial date. If you want a continuance, I will  
23 happily grant that.

24           THE DEFENDANT: I do not want a continuance. I think  
25 this case needs to be dismissed because you cannot provide me

1 a safe venue within my 70 days. There's nowhere in the world  
2 you can produce this trial where I will be safe to have it  
3 within my constitutionally guaranteed Sixth Amendment speedy  
4 trial right --

5 THE COURT: Okay.

6 THE DEFENDANT: -- if you --

7 THE COURT: Mr. Haas, this, we have discussed before,  
8 so I am going to just interrupt here because as I've told you  
9 before, it does not violate either the statutory Speedy Trial  
10 Act nor the constitutional provision for a speedy trial in  
11 these extremely unique circumstances to exclude time against  
12 the speedy trial clock when we have these -- this public  
13 health concern that's going on. So dismissal of the case is  
14 not an option.

15 I mean, you're certainly free to take that up on  
16 appeal if you are convicted. After the judgment, you can  
17 certainly take that up on appeal. So the choice you have is,  
18 if you want a continuance because you have your own health  
19 concerns over this, again, I'm happy to continue the case.

20 THE DEFENDANT: Absolutely not.

21 THE COURT: What -- I'm sorry. Just go ahead one  
22 more time.

23 THE DEFENDANT: I said, absolutely not.

24 THE COURT: Okay. Then we'll stick with the trial  
25 date. And then in terms of your -- you called Ms. Singer just



1 now your counsel and your right to whisper to your counsel.  
2 You do not have a right to standby counsel, Mr. Haas. You  
3 have chosen to represent yourself as is your right. We had  
4 the discussion about all the disadvantages. There is no right  
5 to standby counsel. This is something that I have given to  
6 you to help you in any way that I can, but there is no right  
7 to it.

8           So I have, I think, taken steps well beyond what is  
9 actually required in terms of facilitating your filing of  
10 motions, your ability to have at least some legal advice, and  
11 so on, but there is no right to it. So I certainly want to  
12 hear your concerns. If you have other proposals, as I think  
13 Ms. Singer is trying to constructively do, I'm certainly  
14 willing to hear that.

15           And then with regard to headsets, the idea would be  
16 that either by turning your head or whispering, you would  
17 still be able to hear one another. But if the standby counsel  
18 is concerned that she does not want to be within six feet even  
19 if masked -- and I can understand, I can understand if she has  
20 that concern given how the purpose would be to actually speak  
21 to one another directly. If she has that concern, then I'm  
22 going to try to make the headset solution work.

23           But again, if you have some other proposal that you  
24 want to make, I'm happy to hear that.

25           THE DEFENDANT: I don't. I just think it's

1 ridiculous that you people are forcing a room full of jurors  
2 by court ordered -- ordered to appear in court risk their  
3 lives over some text messages and some voicemails is just  
4 ridiculous. And I don't think the jurors --

5 THE COURT: Okay.

6 THE DEFENDANT: -- are going to be very happy about  
7 this either. I don't think I'm getting a fair trial.

8 THE COURT: So once again, Mr. Haas, it is your  
9 choice in terms of the timing once I have decided that under  
10 the law there is no speedy trial violation. And you're the  
11 one insisting on the trial being held in terms of its timing.  
12 So okay.

13 Ms. Singer, if we can make the headsets work --

14 MS. SINGER: Yes, Judge.

15 THE COURT: If we can make the headsets work -- and  
16 again, you know, there is no right to a standby counsel. So  
17 if you want to withdraw and you're not satisfied with being  
18 able to sit at -- you know, in the first row of the gallery, I  
19 think is what you had proposed, with a headset, then you can  
20 go ahead and ask to withdraw. And I can give it some more  
21 thought today, but I would then post a decision by this  
22 afternoon.

23 And the other -- oh, the concern that Mr. Haas has in  
24 terms of the distancing, I would simply instruct the jury that  
25 I have authorized that there be that additional distancing so

1 the jury would not take any kind of adverse inference from  
2 that.

3 But go ahead, Ms. Singer.

4 MS. SINGER: Thank you, your Honor. If headsets can  
5 be used and I can be in both a mask and a shield and gloves  
6 and can sit not at counsel table, somewhere -- I mean,  
7 somewhere else -- I don't know if it's the first row or the  
8 last row -- I can do that. But without that, your Honor, I  
9 would have to ask to withdraw.

10 THE COURT: Okay. Let me see if I can -- I'll have  
11 to test it with -- you're proposing a shield as well?

12 MS. SINGER: I am, your Honor, yes. I did propose,  
13 yes.

14 THE COURT: Okay. Well, that's a new one. I think  
15 the audibility might become an issue there because we tried  
16 face shields in coming up with precautions, and the audibility  
17 is a substantial problem.

18 MS. SINGER: Your Honor, if -- my understanding  
19 that -- I mean, the only witness that I would potentially be  
20 questioning is Mr. Haas and, therefore, if the court reporter  
21 couldn't hear me at that time, I'd be willing -- and I'm  
22 distanced from obviously Mr. Haas and the government lawyers,  
23 I could take the shield off for that purpose but other than  
24 that, I won't.

25 THE COURT: I meant the audibility --

1 MS. SINGER: The headsets?

2 THE COURT: -- for the attorney/client conference.

3 MS. SINGER: Okay.

4 THE COURT: But that, maybe we can get around that  
5 because if the shield is -- do you actually have a shield?

6 MS. SINGER: I do, your Honor, yes.

7 THE COURT: Okay. Is it far away from your face that  
8 you think you could slip the -- you know how the interpreters  
9 have those handheld small mikes. Could you slip that in  
10 between, or is there not enough distance?

11 MS. SINGER: No, you can. I mean, I'd have to -- you  
12 have to be -- the only way the shields are effective at all is  
13 if you also have a mask on. So the mask obviously would cover  
14 my mouth and nose, and then I could slip a microphone between  
15 the shield and the mask.

16 THE COURT: Right. Okay. All right. Let me -- I'll  
17 look into that, and then I will also see if Systems can have  
18 kind of a backup in terms of some kind of chat computer which  
19 again, I would instruct the jury that I have authorized,  
20 authorized for you.

21 Okay. All right. I will try to put some more  
22 concrete steps into implementing these. And for now, though,  
23 I think we have a plan instead of the withdrawal of standby  
24 counsel.

25 Okay. Mr. Haas, anything else?

1 THE DEFENDANT: No.

2 THE COURT: Ms. Singer, anything else?

3 MS. SINGER: Not at this time, your Honor.

4 THE DEFENDANT: I believe, your Honor, yes, I would  
5 like to say something.

6 THE COURT: Go ahead.

7 THE DEFENDANT: I had told you I was going to file  
8 another motion to admit the evidence from the one disk of the  
9 text messages and another motion for my voir dire questions.  
10 And I have them written up and copies of them made yesterday,  
11 but they never came for legal mail yesterday, so I'm going to  
12 have to put it in today.

13 THE COURT: Okay. Yes, go ahead and do that. And  
14 I'm sure Ms. Singer will put it on as quickly as she can. And  
15 if it doesn't reach me in time for the posting of the voir  
16 dire questions then obviously, I'll consider them whenever  
17 they come in, and then we can address it on Monday.

18 THE DEFENDANT: Thank you, your Honor.

19 THE COURT: Okay. Anything else for the government?

20 MR. JONAS: Yes, your Honor. I would -- the  
21 defendant just said something a few moments ago regarding the  
22 jurors putting their lives at risk over some text messages. I  
23 just want to make sure that that's not something he's going to  
24 actually say to the jurors either in opening statement or  
25 closing argument.

1           THE DEFENDANT: Excuse me, your Honor. I'd like to  
2 know why this man is trying to hide the truth from these  
3 jurors. I don't think that's acceptable. They should know  
4 every bit of every part of this case including --

5           THE COURT: Yes. So --

6           THE DEFENDANT: -- the trial.

7           THE COURT: Okay. So Mr. Haas, I think it's -- the  
8 issue with respect to the admissibility of the text messages,  
9 again, we've dealt with that in part at the pretrial  
10 conference. You say you've got another motion to file on  
11 that. That's a separate issue from saying anything to the  
12 jurors about the risks we've taken --

13           THE DEFENDANT: That's what I'm talking about. That  
14 is the truth. It's the truth. We're putting their lives in  
15 danger because of some text messages. That is a fact.

16           THE COURT: No. Mr. Haas, you are barred from  
17 referring to in any way the supposed risk that the jurors are  
18 undergoing. We've taken extraordinary steps to implement as  
19 many safety measures as possible, and so that kind of argument  
20 is completely off bounds.

21           THE DEFENDANT: Your Honor, you're not taking any  
22 steps. You're giving them dust masks that wouldn't be allowed  
23 in a job site to remove drywall, and you are lying to them  
24 saying "post-pandemic" when the numbers are on the rise.  
25 Post-pandemic is nowhere within sight.

1 THE COURT: Mr. Haas --

2 THE DEFENDANT: Just on the record --

3 THE COURT: The label on that document was not meant  
4 to say that, for example, the national emergency declaration  
5 is over and so on. It just simply means that we're actually  
6 restarting, trying to restart jury trials. And you have had  
7 an opportunity to review all of these steps including the  
8 distancing within the jury room which is going to -- within  
9 the courtroom which is going to require changing our jury box  
10 and the multiple additional precautions we've taken from the  
11 moment they step into the courthouse to the jury assembly room  
12 where they will be distanced in that, through voir dire which  
13 will take place in multiple stages instead of one. So there  
14 are many, many steps that we have taken to ensure their  
15 safety.

16 So you will not mention that, you know, the risk that  
17 you perceive that the jurors are undergoing because it has no  
18 bearing on whether the government has proved beyond a  
19 reasonable doubt the charges. And that's the only issue at  
20 trial. So please do take note of that.

21 And I just want to alert you that if you mention  
22 that, then I will be forced to terminate your presentation. I  
23 don't want to do that. I want you to take your 20 minutes for  
24 the opening statement. I want you to take your one hour for  
25 your closing argument. I want you to examine witnesses and so

1 on. So please don't put yourself in a situation where I  
2 decide I have to terminate one of your jury addresses.

3 Okay. This hearing is adjourned.

4 (Proceedings adjourned at 11:30 a.m.)

5 \* \* \* \* \*

6 C E R T I F I C A T E

7 I, Judith A. Walsh, do hereby certify that the  
8 foregoing is a complete, true, and accurate transcript of the  
9 telephonic proceedings had in the above-entitled case before  
10 the Honorable EDMOND E. CHANG, one of the judges of said  
11 court, at Chicago, Illinois, on July 28, 2020.

12

13 /s/ Judith A. Walsh, CSR, RDR, F/CRR September 3, 2020

14 Official Court Reporter

15 United States District Court

16 Northern District of Illinois

17 Eastern Division

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